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Paul M. Nick
Executive Director

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April 5, 2012

Informal Opinion 2012-INF-0405-2

Dan Crandall, President
Club Metro

Dear Mr. Crandall:

On December 12, 2011, the Ohio Ethics Commission received your request for an advisory opinion. In your letter, you explained that:

- Club Metro is an Ohio non-profit corporation¹ comprised of Cleveland Metropolitan Park District (Metroparks) employees and retirees for the purpose of promoting charitable, educational, and recreational activities for its members;
- Club Metro is funded through membership dues, admission fees, and an annual \$5,000 contribution from the Board of Park Commissioners of the Cleveland Metroparks;
- Club Metro is independent from the Cleveland Metroparks and maintains its own bank account and financial records; and
- Club Metro membership is optional and events are held outside of member working hours.

You also provided a copy of Club Metro's Articles of Incorporation and its audited 2011 financial statement.

Cleveland Metropolitan Park District

The Cleveland Metropolitan Park District is an independent political subdivision.² It is governed by a board of three members, appointed by the presiding judge of the Cuyahoga County Probate Court.³ Among its other duties, Cleveland Metroparks is authorized by statute to enact bylaws and rules for the protection and preservation of parks, parkways, and other lands under its jurisdiction and control, acquire land for the conservation of natural resources, levy taxes to support its functions, and issue bonds to acquire and improve lands within its territorial jurisdiction.⁴ The Metroparks board is authorized to employ any persons necessary to perform the duties described in Chapter 1545.⁵

Questions and Brief Answers

1. Can Club Metro accept donations from vendors or potential vendors of Cleveland Metroparks to be used as raffle prizes at Club Metro events?

Yes. Club Metro can accept donations from any person, including vendors and potential vendors of Cleveland Metroparks.

However, members of Club Metro who are Metroparks employees cannot accept a raffle prize donated to Club Metro by vendors or potential vendors of Metroparks.

2. Can Club Metro accept donations from local organizations that are not vendors or potential vendors of Metroparks?

Yes.

3. Can a Metroparks employee who receives a gift donate the gift to Club Metro?

Yes, provided that the Metroparks employee is not prohibited from accepting the gift for his or her personal use.

Conflict of Interest Prohibitions—R. C. 102.03(E)

Metroparks employees are public employees⁶ subject to R.C. 102.03(E), which reads:

No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties.

Anything of value includes money and every other thing of value.⁷ A donated item to be used as a raffle prize is within the definition of "anything of value."⁸

A thing of substantial value is "of such a character as to manifest a substantial and improper influence" upon a public employee if it *could* impair the employee's objectivity and independence of judgment with respect to his or her public duties.⁹ A thing of substantial value given to a public employee by a company that is selling or seeks to sell goods or services to the employee's agency could impair the employee's objectivity and independence of judgment.

Therefore, R.C. 102.03(E) prohibits a public employee from accepting a thing of substantial value from a company that is selling or seeks to sell goods or services to the employee's office¹⁰ The restriction in R.C. 102.03(E) applies to a public employee even if the employee has not used the authority or influence of his or her public position to secure the thing of value for a raffle at which the employee might personally benefit.¹¹

Application to Facts

Club Metro, as a private non-profit organization, is not subject to the restrictions in the Ethics Law that apply to public officials and employees.¹² Therefore, Club Metro is not prohibited from soliciting or accepting donations from any person, company, association, organization, or other person or entity.

However, R.C. 102.03(E) prohibits a Metroparks employee who is a member of Club Metro from accepting a raffle prize given at a Club Metro event if a Metroparks vendor or potential vendor donated the prize. This restriction does not apply to Club Metro members who are not Metroparks employees.

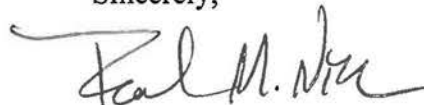
R.C. 102.03(E) does not prohibit a Metroparks employee who is a member of Club Metro from:

- Accepting a raffle prize at a Club Metro event if it was donated by someone who has no relationship with Metroparks; or
- Donating a gift to Club Metro, provided that the gift was given to the employee by someone who has no relationship with Metroparks.

The conclusions in this opinion apply to raffles operated by non-profit organizations that are created by the officials, employees, and retirees of a public agency for social purposes.

The Ohio Ethics Commission approved this informal advisory opinion at its meeting on April 5, 2012. This opinion is based on the facts presented. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code. It does not purport to interpret other laws or rules. If you have any questions or need additional information, please contact the Ethics Commission again.

Sincerely,



Paul M. Nick
Executive Director

cc: Cleveland Metroparks Board Members

The Ohio Ethics Commission Advisory Opinions referenced in this opinion are available on the Commission's Web site: www.ethics.ohio.gov.

¹ 26 U.S.C. 501(c)(3).

² R.C. 1545.01 and 1545.07.

³ R.C. 1545.05(A).

⁴ R.C. 1545.09(A), 1545.11, 1545.21, and 1545.24.

⁵ R.C. 1545.07.

⁶ R.C. 102.01(B) and (C); R.C. 1545.01 (addressing the formation of park districts).

⁷ R.C. 1.03 and 102.01(G).

⁸ Ohio Ethics Commission Advisory Opinions No. 89-002 and 92-015.

⁹ Adv. Ops. No. 76-005 and 95-001.

¹⁰ Adv. Op. No. 2001-04.

¹¹ See R.C. 102.03(D); Adv. Ops. No. 87-006 and 89-006.

¹² Adv. Op. No. 75-013.